

29432. Adulteration and misbranding of rubber prophylactics. U. S. v. 1 Gross, 18 Gross, and 5 Gross of Rubber Prophylactics. Default decree of condemnation and destruction. (F. & D. Nos. 42451, 42452, 42453. Sample Nos. 24319-D, 24320-D, 24346-D, 24349-D.)

Samples of this product were found to be defective in that they contained holes.

On May 25, 1938, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 gross of rubber prophylactics at Columbus, Ohio; alleging that the article had been shipped in interstate commerce within the period from on or about October 14, 1937, to on or about April 19, 1938, from Spencer, Ind., by World's Products Co.; and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part, variously: "Red Bird," "X cello's," or "Silver-Tex."

It was alleged to be adulterated in that its strength fell below the professed standard or quality under which it was sold.

Misbranding was alleged in that the following statements in the labeling were false and misleading: (Red Bird) "Prophylactic * * * Guaranteed Five Years * * * for the Prevention of Contagious Diseases * * * For Prevention of Disease"; (X cello's) "X cello's the perfected latex * * * For Prevention of Disease"; (Silver-Tex) "* * * for Prevention of Disease * * * Prophylactic * * * Guaranteed Five Years * * * for the Prevention of Contagious Disease."

On August 31, 1938, no claimant having appeared, judgment of condemnation was entered and the article was ordered destroyed.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29433. Misbranding of Shapley's Derol, Unguentum Camphoratum, Liniment, Tonup, and Stimulating Pills. U. S. v. Shapley Drug Co., Inc., and Milton L. Shapley. Plea of guilty as to corporation; fine, \$50. Plea of not guilty as to individual. Facts submitted to court upon a stipulation. Judgment of not guilty. (F. & D. No. 36078. Sample Nos. 28324-B, 28325-B, 32302-B, 32303-B, 32304-B.)

The labeling of these products bore false and fraudulent curative and therapeutic claims, and the Tonup contained less alcohol than declared on its label.

On February 26, 1936, the United States attorney for the Southern District of Illinois, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Shapley Drug Co., Inc., Decatur, Ill., and Milton L. Shapley, an officer of the corporation, alleging shipment by said defendants in violation of the Food and Drugs Act as amended, on or about March 13 and 19 and April 13 and 19, 1935, from the State of Illinois into the State of Iowa, of quantities of the above-named products which were misbranded. The articles were labeled in part: "Manufactured By Shapley Drug Co." or "Shapley Drug Co. Inc Decatur, Ill."

Analyses of samples of the article showed that the Derol consisted essentially of mineral oil, small proportions of volatile oils (including eucalyptol, menthol, and possibly camphor), and a trace of iodine, colored with a red dye; the Unguentum Camphoratum consisted essentially of a small proportion of volatile oils (including camphor, menthol, and possibly eucalyptol), incorporated in a base consisting chiefly of petrolatum and a small proportion of paraffin; the Liniment consisted essentially of sodium chloride, small proportions of ammonia and ammonium salts, extracts of plant drugs (including an alkaloid-bearing drug), and camphor and water; the Tonup consisted essentially of extracts of plant drugs (including sassafras, wild cherry bark, dandelion and cassia buds), alcohol (1.1 percent by volume), and water; and the Stimulating Pills contained extracts of plant drugs (including a bitter principle), coated with sodium bicarbonate and dextrose and colored green.

The articles were alleged to be misbranded in that the statements on their respective labels falsely and fraudulently represented their therapeutic and curative effectiveness as follows: (Derol) As a treatment for sinus trouble, catarrh, tonsillitis, and various nose and throat troubles; (Unguentum Camphoratum) as a treatment for catarrh, hay fever, headache, earache, Spanish influenza, coughs, croup, whooping cough, sore throat, mumps, tonsillitis, neuralgia, muscular rheumatism, lumbago, sore joints, sore muscles, and piles of any nature, as a preventative of Spanish influenza and of flu, as a first aid for burns, and as an antiseptic for cuts, burns, and scalds; (Liniment) as a treatment for rheumatism, neuralgia, lumbago, neuritis, stiff or puffed joints, sore throat, and croup, and its effectiveness to penetrate the affected parts;

(Tonup) as an effective agent to tone up the system, as a tonic regulator and invigorator to the human system, as an effective agent to have tonic and cleansing action upon the blood, liver, bowels, etc., as a treatment, remedy, and cure for loss of appetite, loss of strength, fatigue, malarial conditions, general debility, liver and bowel disorders, anemia, exhaustion from overwork, nervousness, and weakness, and as a reconstructive tonic; (Stimulating Pills) as an effective agent to stimulate the kidneys and bladder and as a treatment for backache, kidneys and bladder, rheumatic pains, uric acid, gout, scanty urine, and all weaknesses of the urinary system.

The Tonup was alleged to be misbranded further in that the statement on the label, "Alcohol 10%," was false and misleading since it represented that the article contained 10 percent of alcohol; whereas it contained less than 10 percent, i. e., not more than 1.1 percent of alcohol; and in that it contained alcohol and its label failed to bear a statement of the quantity or proportion of alcohol contained therein.

On July 29, 1938, the corporation having entered a plea of guilty, it was sentenced to pay a fine of \$50. The issue as to Milton L. Shapley was submitted to the court upon a stipulation of facts, a jury having been waived, whereupon the court made a finding of not guilty.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29434. Adulteration and misbranding of Epsom salts. U. S. v. 24 Cases of Epsom Salts. Consent decree of condemnation. Product released under bond for relabeling. (F. & D. No. 43039. Sample No. 30412-D.)

This product was sold as Epsom salt, a product which should contain 99.5 percent of anhydrous magnesium sulphate as required by the test laid down in the United States Pharmacopoeia but which contained not more than 82.56 percent of anhydrous magnesium sulphate and approximately 14.32 percent of sodium sulphate when so tested. Furthermore, the labeling bore false and fraudulent curative and therapeutic claims.

On August 4, 1938, the United States attorney for the District of Wyoming, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 24 cases of Epsom salts at Cheyenne, Wyo.; alleging that the article had been shipped in interstate commerce on or about February 16, 1938, from Denver, Colo., by Larche Laboratories; and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that it differed from the standard of strength, quality, and purity as determined by the test laid down in the United States Pharmacopoeia and its own standard of strength, quality, and purity was not stated on the label.

It was alleged to be misbranded in that the statements, "Epsom Salts Magnesium Sulphate * * * Nature Made It Pure * * * Hot concentrated, aqueous solutions of magnesium sulphate * * * are extensively used * * * cloths being saturated and applied while hot. The action * * * has the advantage of being sterile. These salts are guaranteed to be technically pure in every detail," were false and misleading and deceived the purchaser thereof since the statements represented that the article was pure magnesium sulphate (or magnesium sulfate) and that when used as directed it was sterile; whereas it was not pure magnesium sulphate or magnesium sulfate since it contained a material portion of sodium sulphate and when used as directed, it was not sterile. The article was alleged to be misbranded further in that the statement on the label, "Used in the treatment of deep-seated infections," falsely and fraudulently represented its curative or therapeutic effect.

On August 25, 1938, the Larche Laboratories, Denver, Colo., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond conditioned that it be relabeled.

HARRY L. BROWN, *Acting Secretary of Agriculture.*

29435. Adulteration and misbranding of rubber prophylactics. U. S. v. 45^{11/12} Gross of Rubber Prophylactics (and one similar seizure action). Default decrees of condemnation and destruction. (F. & D. Nos. 42100, 42270 to 42273, incl. Sample Nos. 2891-D, 2893-D, 17875-D, 17876-D, 17877-D, 17879-D.)

Samples of this product were found to be defective in that they contained holes.